



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

brought a representative action on behalf of the corporation against its directors for damages due to the negligent administration of corporate affairs. The plaintiff had acquired a part of his stock from the negligent directors after they had been guilty of breaches of duty. *Held*, that there could be no recovery on this stock. *Harris v. Rogers*, 179 N. Y. Supp. 799 (App. Div.).

By the weight of authority no stockholder can bring a representative action on behalf of the corporation if his transferor participated in the wrong, on the ground that a stockholder, like the transferee of a chose in action, stands in the shoes of his transferor. *Boldenweck v. Bullis*, 40 Colo. 253, 90 Pac. 634. See also *Babcock v. Farwell*, 245 Ill. 14, 41, 91 N. E. 683, 692. *Contra*, *Parsons v. Joseph*, 92 Ala. 403, 8 So. 788. This view overlooks the fact that in a representative action a stockholder acts in behalf of the corporation, and fails to perceive that the guilt of a stockholder should be only a personal bar against his participation in the fruits of the action. See *Babcock v. Farwell*, *supra*. The majority view is also due in part to the interpretation of Equity Rule 94 of the Supreme Court — which allows a stockholder to bring a representative action only if he owned stock at the time of the wrong, or acquired it subsequently by operation of law — as the statement of a substantive equity principle. See *Home Fire Ins. Co. v. Barber*, 67 Neb. 644, 656-662, 93 N. W. 1024, 1029-1031. But this rule is merely procedural, to prevent frauds on the jurisdiction of the federal courts. See *Quincy v. Steel*, 120 U. S. 241, 245, 248; *Venner v. Great Northern Ry.*, 209 U. S. 24, 34. It is submitted that the majority view is further objectionable in that it impairs the marketability of stock in general. See WARREN, CASES ON CORPORATIONS, 886, note.

CRIMINAL LAW — TRIAL — REVERSIBLE ERROR TO INSTRUCT JURY CONCERNING A DEGREE OF HOMICIDE LESS THAN THAT SHOWN BY THE EVIDENCE. — The evidence in a murder trial indicated clearly that the killing was accomplished by lying in wait, and that it was done maliciously, deliberately and with premeditation. Over the objection of the defendant, the court instructed the jury as to both first and second degree murder. The jury found the accused guilty of the lower grade. *Held*, that a new trial be granted. *Dickens v. People*, 186 Pac. 277 (Colo.).

It is well established that it is not error for a court to confine its charge to first degree murder, when all the evidence indicates either that grade of the offense or innocence. *Jarvis v. State*, 70 Ark. 613, 67 S. W. 76; *People v. Repke*, 103 Mich. 459, 61 N. W. 861; *State v. Cox*, 110 N. C. 503, 14 S. E. 688. The present case goes a step further, and holds that it is erroneous for a trial court, in such a case, to charge on anything but first degree murder, a view supported by the weight of authority. *State v. Stoeckli*, 71 Mo. 559; *Dresback v. State*, 38 Oh. St. 365. The error consists in the fact that jurors who have a reasonable doubt of the accused's guilt, and who should accordingly vote for an acquittal, may conceivably compromise with that doubt by finding the accused guilty of a lower degree of homicide. See *State v. Mahly*, 68 Mo. 315. Confining instructions to first-degree murder will often be of practical benefit to a defendant, for he thereby obtains the advantage of any aversion which jurors may have to the weighty punishment accompanying conviction. See *State v. Martin*, 92 N. J. L. 436, 447, 106 Atl. 385, 389. It is to be noted that reversals should be restricted to those cases where the defendant objected and excepted at the trial, and where it is very clear that a charge on a lower grade of homicide was inapplicable.

DIVORCE — ALIMONY — WHETHER CONTEMPT IN FAILING TO PAY IS PUNISHABLE BY DISMISSING COMPLAINT. — The plaintiff had brought an action for divorce against his wife. Upon his failure to pay alimony and counsel fees awarded to her, she moved to strike out his complaint. *Held*, that the motion be denied. *Naveja v. Naveja*, 179 N. Y. Supp. 881.